

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3406(b), Mediterranean Fruit Fly Interior Quarantine

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3406(b) is to provide for the State to regulate the movement and possible carriers of Mediterranean fruit fly (Medfly) from the area under quarantine to prevent the artificial spread of the Medfly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that the emergency amendment of Section 3406(b) was necessary is as follows:

Medfly is a destructive insect pest which attacks the fruit of various plants including over 150 crops such as citrus, tomatoes, grapes, avocados, peaches, and cherries. The female punctures host fruit to lay eggs which develop into larvae. The punctures admit decay organisms that may cause tissue breakdown. Larval feeding causes breakdown of fruit tissue. Fruits with egg punctures and larval feeding are generally unfit for human consumption. Pupae may be found in fruit, but normally are found in soil.

On October 15, 2005, one sexually mature mated female Medfly was taken from a trap and determined to be mated and filled with eggs on October 18, 2005. The detection of a mated female adult Mediterranean fruit fly with eggs is indicative of another epicenter of an incipient

infestation of the fly in the Rancho Cucamonga area of San Bernardino County. Therefore, it is necessary to expand the existing regulated area in 3406(b) to encompass this new epicenter and the resulting 4-1/2 mile buffer area surrounding this new epicenter.

A buffer zone is necessary because the fly can spread naturally (as well as being spread artificially in infested hosts). The proposed boundary line was drawn jointly by the United States Department of Agriculture, the California Department of Food and Agriculture, and the San Bernardino County Agricultural Commissioner. The proposed quarantine area is considered the minimum area around the epicenter sites which should be regulated to prevent artificial spread of Mediterranean fruit fly to noninfested areas.

As a result of trapping adult female flies on September 27, 2005, the Department made an emergency amendment, effective October 7, 2005, to Section 3406(b) which added approximately 72 square miles surrounding the Rancho Cucamonga area of San Bernardino County to the regulation.

Subsequently, additional adult female flies were taken from traps on October 7 and 8, 2005, and an emergency amendment to the regulation, effective on October 17, 2005, expanded the regulated area surrounding Rancho Cucamonga by 13 square miles.

If the fly were allowed to spread and become established in host fruit production areas, California's agricultural industry would suffer losses due to decreased production of marketable fruit, increased pesticide use, and loss of markets if other states or countries enacted quarantines against California products.

This emergency amendment added approximately 17 square miles to the existing area (approximately 85 square miles) under quarantine that surrounds the Mediterranean fruit fly infestation in the Rancho Cucamonga area of San Bernardino County. This amendment resulted in approximately 102 square miles as being that area surrounding Rancho Cucamonga which will be regulated under Section 3406(b). To prevent artificial spread of the fly to noninfested areas to protect California's agricultural industry, it is necessary immediately to regulate movement of

hosts which can carry the fly within and from the infested area and surrounding buffer zone. Therefore, it is necessary to amend Section 3406(b) on an emergency basis.

The Department also made a nonsubstantial change to Section 3604(b)(2), correcting the spelling of “Alamden” to “Almaden.”

#### Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the Agricultural Commissioner of San Bernardino County requested the change in the regulations.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states. The Department's determination that this action will not have a significant adverse economic impact on businesses was based on the following:

There are no known private or commercial entities that are economically affected by adding these 17 square miles to the regulation.

#### Assessment

The Department has made an assessment that the amendment to this regulation would not (1)

create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the adoption of Section 3606(b):

Email dated December 2, 2005, from Nick Condos to Stephen Brown.

Letter dated November 21, 2005, to Stephen Brown, from Edouard P. Layaye, San Bernardino County Agricultural Commissioner.

“Pest and Damage Record #1363151,” dated October 8, 2005, California Department of Food and Agriculture, Plant Health and Pest Prevention Services.